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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jay S. Walker

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7050

22927

7590

06/30/2006

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EXAMINER

COLBERT, ELLA

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/654,933

**Applicant(s)**

WALKER ET AL

**Examiner**

Ella Colbert

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 49-62, 70 and 73-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-62, 70, and 73-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

1. Claims 49-62, 70, and 73-80 are pending in the following communications: Notice of Appeal filed 3/23/06, Request for Appeal Conference filed 03/23/06, Appeal Conference decision 4/21/06, and 4/24/06 Appeal Conference Reopen Prosecution.

#### **12.187 Reopening of Prosecution After Filing Notice of Appeal and Request for Pre-Appeal Conference**

2. In view of the Request for Appeal Conference filed 3/25/06 and the Appeal Conference Decision of 4/21/06, PROSECUTION IS HEREBY REOPENED. A new ground(s) of rejection is set forth here below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If however, the appeal fees set forth in 37 CFR 4120 have been increased since they were previously paid, then the appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Examination has been done to the best of the Examiner's ability given the condition of the claims.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 49, 61, 62, 73, 74, and 80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 49, lines 8 and 9 contain a conditional statement. It is unclear what happens "if the customer does not agree to the modification of the parameter". Is the customer made another offer? Claim 80 has a similar problem.

Claim 49 also recites "first value", "second value", and "parameter". One of ordinary skill in the financial arts would be hard put to identify a "first value", a "second value", and a "parameter". Such "values" and "parameters" are broad, varied and constantly changing.

Claim 61 recites "an apparatus". This recitation is vague and indefinite. It is not understood if the "apparatus" is a computer or some type of a "device". Claim 73 has a similar problem.

Claim 62 recites "a medium encoded with a program for implementing a method, ... steps of:". The recitation "a medium ...". Is vague and indefinite. The "medium" needs to be a computer-readable medium encoded with a computer-readable program

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for executing computer-readable instructions for implementing a method ...". Claim 62 has a similar problem.

### ***Claim Objections***

5. Claim 73 is objected to because of the following informalities: claim limitation 3 recites "the storage device"; "and the processor". This claim limitation should begin with "a storage device"; "and a processor" in order to be in agreement with the other claim limitations prior to these claim limitations. Appropriate correction is required.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 49-62, 70, and 73-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over (WO 00/60487) Wilcox (priority date 04/02/99 and filing date 3/31/00) in view of "Google-cashback reference" and further in view of (US 5,297,026) Hoffman.

Claims 49, 61 and 62: Wilcox discloses, A method, corresponding apparatus and program comprising: determining a first value for an parameter of a credit account (page 8, lines 5-8); determining a second value for the parameter (page 8, lines 9-19). Wilcox did not expressly disclose calculating, by a processing device, a payment, wherein the payment is based on a modification of the parameter from the first value to the second value and providing an offer to a customer associated with the credit account, wherein the offer comprises an offer to provide the payment to the customer if the customer agrees to the modification of the parameter (page 11, lines 6-19).

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Hoffman discloses calculating, by a processing device, a payment, wherein the payment is based on a modification of the parameter from the first value to the second value (col. 2, lines 3-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to calculate, by a processing device, a payment, wherein the payment is based on a modification of the parameter from the first value to the second value and providing an offer to a customer associated with the credit account, wherein the offer comprises an offer to provide the payment to the customer if the customer agrees to the modification of the parameter and to modify in Wilcox because such a modification would allow Wilcox to provide a customer with special services if the customer agrees to and complies with the credit regulations.

Claim 50. Wilcox discloses, The method of claim 49, further comprising: receiving a customer acceptance of the offer (page 8, line 28-page 9, line 7 and page 10, lines 16-25).

Claim 51. Wilcox discloses, The method of claim 50, further comprising: providing the payment to the customer (page 11, lines 14-19); and modifying the account parameter from the first value to the second value (page 11, lines 6-12). Wilcox did not expressly disclose "a payment". The "Goggle" reference discloses giving the customer "cashback" in a transaction which is well known in the art of transactions.

Claim 52. Wilcox failed to disclose, The method of claim 51, wherein an indication of the first value of the parameter of the credit account associated with the customer is stored in a record of a parameter database and where the step of modifying the parameter comprises: substituting the second value for the first value in the record of

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the parameter database. Hoffman discloses wherein an indication of the first value of the parameter of the credit account associated with the customer is stored in a record of a parameter database and where the step of modifying the parameter comprises: substituting the second value for the first value in the record of the parameter database (col. 7, line 17-col. 8, line 36 and Figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an indication of the first value of the parameter of the credit account associated with the customer is stored in a record of a parameter database and where the step of modifying the parameter comprises: substituting the second value for the first value in the record of the parameter database and to modify in Wilcox because such a modification would allow Wilcox to have a high rate of return on an investment from an offering-entity.

Claim 53. Wilcox failed to disclose, The method of claim 52, wherein the value of the parameter as stored in the record of the parameter database is used to calculate an amount owed by the customer for activity on the credit account. Hoffman discloses wherein the value of the parameter as stored in the record of the parameter database is used to calculate an amount owed by the customer for activity on the credit account (col. 8, line 37-col. 9, line 3 and figure 5- shows a database). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the value of the parameter as stored in the record of the parameter database is used to calculate an amount owed by the customer for activity on the credit account and to modify in Wilcox because such a modification would allow Wilcox to have the ability

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to retain the parameter value to know what a customer owes on their credit account each month (billing cycle).

Claim 54. Wilcox failed to disclose, The method of claim 49, wherein the account parameter comprises one of an interest rate, a time period of the interest rate, a monthly minimum payment, a credit limit, a grace period, a payment amnesty, and a late fee. Hoffman discloses wherein the account parameter comprises one of an interest rate, a time period of the interest rate, a monthly minimum payment, a credit limit, a grace period, a payment amnesty, and a late fee (col. 8, lines 13-36 and figure 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the account parameter comprises one of an interest rate, a time period of the interest rate, a monthly minimum payment, a credit limit, a grace period, a payment amnesty, and a late fee. Hoffman discloses wherein the account parameter comprises one of an interest rate, a time period of the interest rate, a monthly minimum payment, a credit limit, a grace period, a payment amnesty, and a late fee and to modify in Wilcox because such a modification would allow Wilcox to have a database with records for each of the account sections taken into consideration each billing period.

Claim 55. Wilcox discloses, The method of claim 49, wherein the second value is selected based on information associated with the customer associated with the credit account (page 4, lines 6-20).

Claim 56. Wilcox discloses, The method of claim 55, wherein the customer information comprises a customer rating (Page 8, lines 5-8).



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Claim 57. Wilcox discloses, The method of claim 56, wherein the customer rating is based on at least one of a past payment history for the credit account, information obtained from a credit reporting agency, and an income of the customer (page 7, lines 9-13 and line 24-page 8, line 4). However, it is well known in the art when applying for credit or a loan, etc. the applicant's (customer's) credit report which includes the past payment history and the income of the customer are always checked and the loan amount (credit) and rate of interest are based mainly on these factors.

Claim 58. This dependent claim is rejected for the similar rationale as given above for claims 49 and 55.

Claim 59. Wilcox and Hoffman failed to disclose, The method of claim 49, wherein the second value of the parameter is more favorable to a credit account issuer associated with the credit account. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the second value of the parameter to be more favorable to a credit account issuer associated with the credit account and to modify in Wilcox because such a modification would allow Wilcox to have a favorable parameter based on the customer's credit rating by the credit bureau.

Claim 60. Wilcox discloses, The method of claim 49, wherein the second value of the parameter is more profitable to a credit account issuer associated with the credit account (page 10, lines 9-15).

Claims 70, 73 and 74: These independent claims are rejected for the similar rationale as given above for claims 61 and 62.

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Claim 75. Wilcox and Hoffman failed to disclose, The method of claim 70, further comprising: receiving from the customer a requested modification to the at least one term of the credit account. It is well known that a customer in an effort to negotiate a lower interest rate or bonus points, that a customer will try to request a modification of a credit account.

Claim 76. Wilcox discloses, The method of claim 75, further comprising: evaluating the requested modification in order to determine whether to accept or reject the modification and transmitting to the customer, based on the evaluation, at least one of an acceptance (page 12, lines 6-22) Wilcox failed to disclose a rejection of the requested modification, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to transmit to the customer, based on the evaluation, at least one of an acceptance and a rejection of the requested modification and to modify in Wilcox because such a modification would allow Wilcox to know whether the customer would accept the modification or whether the customer would rejected the modification and would need to be made another modification offer.

Claim 77. This dependent claim is rejected for the similar rationale as given above for claim 76.

Claim 78. This dependent claim is rejected for the similar rationale as given above for claims 76 and 78.

Claim 79. Wilcox and Hoffman failed to disclose, The method of claim 70, wherein the determination that a customer is dissatisfied with the credit account is based on receiving, from the customer, a request to cancel the account, but it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to determine that a customer is dissatisfied with the credit account is based on receiving, from the customer, a request to cancel the account and to modify in Wilcox because such a modification would allow Wilcox to know that the customer is dissatisfied with the credit account when the account is requested to be cancelled. It is well known that when a customer is dissatisfied with a credit account or loan account that the customer with cancel the account and/or move the account.

Claim 80. This independent claim is rejected for the similar rationale as above for claim 1.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamilton et al (US 5,357,563) disclosed processing account transactions.

### ***Inquires***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 26, 2006



**ELLA COLBERT**  
PRIMARY EXAMINER



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